May 12, 2000

Participants Service List
D.T.E. 99-271

Mr. Raymond Sears, III
Principal
KPMG, LLP
1676 International Drive
McLean, VA 22102

Mr. Stuart J. Miller
Vice President
Bell Atlantic
1095 Avenue of the Americas
New York, NY 10036

Re: Letter Order on AT&T's Motion to Adjust the Master Test Plan and to Clarify the D.T.E. 99-271 Procedural Schedule

Dear Messrs. Sears, Miller and Participants:

On March 23, 2000, AT&T Communications of New England, Inc. ("AT&T") filed with the Department of Telecommunications and Energy ("Department") a motion requesting that the Department direct KPMG LLP ("KPMG") to perform volume testing of the Local Service Ordering Guidelines Release 4 ("LSOG 4") production environment (AT&T Motion at 2-3). In addition, this motion also asks the Department to establish a 90-day commercial availability period after KPMG issues its final evaluation of Bell Atlantic-Massachusetts' ("Bell Atlantic") operations support systems ("OSS") (id. at 4). On April 4, 2000, the Department issued a request for comments on AT&T's motion to the participants in D.T.E. 99-271, the Department's inquiry into BA-MA's compliance with the requirements of § 271 of the Telecommunications Act of 1996. The Department received comments from Bell Atlantic; Competitive Telecommunications Association; Covad Communications Company; MCI WorldCom, Inc.; RCN BecoCom, LLC; Rhythms Links, Inc.; and Telecommunications

Resellers Association. On April 14, 2000, AT&T and Bell Atlantic filed reply comments. For the reasons provided below, the Department denies AT&T's motion.

In our letter order issued on November 19, 1999 , the Department directed KPMG to subject Bell Atlantic's current pre-order and order interfaces to normal, high, and stress transaction testing. See November Letter Order at 4. As we noted in this earlier letter order, "a scenario by which KPMG neither extensively examines the functionality of the upcoming LSOG 4 release nor runs normal, high and stress volumes of transactions through existing interfaces in Massachusetts would simply not be representative of the 'real world' conditions in which both [Bell Atlantic] and [competitive local exchange carriers or 'CLECs'] must operate today and in the future." Id. at 3. The pre-order and order interface generally used by CLECs in Massachusetts remains LSOG 2/3.

Bell Atlantic has represented to the Department and KPMG that since both LSOG 2/3 and LSOG 4 share the same front-end system, volume testing results for LSOG 2/3 are applicable to LSOG 4. Moreover, as some ordering transactions are now being processed using LSOG 4, KPMG intends to submit test transactions on LSOG 4 to reflect this new state of affairs. Indeed, KPMG will perform a comprehensive feature function test of LSOG 4. According to KPMG, this feature function test will examine the editing processes performed by Bell Atlantic's new application, Request Manager. Lastly, as directed by the Department in our November letter order, KPMG will make LSOG 4 the subject of the essential "new release" test. We repeat our belief that how Bell Atlantic responds to the "inescapable fact" that software change is "inevitable and iterative" is ultimately more important than the characteristics of any particular OSS software version. Id. For the foregoing reasons, we find a volume test of the LSOG 4 release to be unwarranted.

AT&T's motion also requests that the Department incorporate a 90-day commercial availability period into its procedural schedule, similar to that adopted by the Pennsylvania Public Utility Commission (AT&T Motion at 3). According to AT&T, this "commercial availability period" would begin upon completion of KPMG's testing and issuance of its final report, and would permit CLECs to conduct commercial production testing to ensure that the OSS tested by KPMG will "withstand the rigors of the commercial environment" (id. at 3-4). For reasons stated below, a Department-mandated CLEC commercial production testing period is unnecessary, and, thus, this part of AT&T's motion is also denied.

In its order approving Bell Atlantic-New York's § 271 application, the FCC indicated throughout its discussion of checklist item 2, among other checklist items, that it relied upon actual commercial usage (and Bell Atlantic-New York's performance) from the several-month period immediately preceding the date of Bell Atlantic-New York's application (see e.g., Bell

Atlantic New York Order[1] at ¶¶ 147, 156, 164, 172, 180, 200, 219, 221, 223, 224, 227). This period of time used by the FCC for its review was generally June through September 1999. KPMG released its final report on August 6, 1999 (and completed its retesting shortly before this date). Bell Atlantic-New York submitted its application to the FCC on September 29, 1999. Clearly the FCC did not find it necessary for Bell Atlantic-New York to wait 90 days post-issuance of KPMG's final report before filing its application so that CLECs would have "time to conduct commercial production testing, and to evaluate Bell Atlantic's performance on real-world inquiries and orders" (AT&T Motion at 3).

According to the FCC, the most probative evidence that OSS functions are operationally ready is actual commercial usage. Bell Atlantic New York Order at ¶ 89. However, the FCC stated, "[a]bsent data on commercial usage, [it] will consider the results of carrier-to-carrier testing, independent third-party testing, and internal testing . . ." Id. In this order, the FCC noted that once it approved the first § 271 application, "other applicants will have a model to follow in preparing their applications, making the proceedings at the state level less difficult." Id. at ¶ 6 n.6. Moreover, the FCC provided explicit guidance to future applicants when it stated that it found compliance with numerous measurements created in the New York Carrier-to-Carrier proceeding to be reasonable and appropriate indicators that Bell Atlantic-New York provided nondiscriminatory access to its OSS functions. See e.g., Bell Atlantic New York Order at ¶¶ 146, 152, 155, 160, 189, 190, 218, 227. While AT&T and other CLECs may think it wise for Bell Atlantic to collect several months of post-testing commercial usage data after KPMG's final report, that decision is not required by FCC precedent.

There is commercial activity on Bell Atlantic's OSS right now, and that commercial activity will continue throughout the OSS test. We see no compelling reason to differentiate post-testing commercial activity from commercial activity that comes before or during the test. Bell Atlantic will proceed with an FCC filing using whatever combination of commercial usage and testing it feels it satisfies the FCC's requirements. As the Department stated in an interlocutory order issued on September 30, 1999, the decision about the sufficiency of Bell Atlantic's § 271 filing, which includes its performance with respect to CLECs operating in Massachusetts, is Bell Atlantic's alone to make. If Bell Atlantic were to submit its application

[1] Application by Bell Atlantic New York for Authorization Under Section 271 of the Communications Act to Provide In-Region InterLATA Service in the State of New York, CC Docket No. 99-295 (rel. Dec. 22, 1999) ("Bell Atlantic New York Order").

to the FCC immediately after KPMG issues its final report, without meeting the performance standards set forth in the Bell Atlantic New York Order, and prior to the completion of the procedures the Department set forth in its August 1999 notice, it would do so at its own risk.

By Order of the Department

James Connelly, Chairman

W. Robert Keating, Commissioner

Paul B. Vasington, Commissioner

Eugene J. Sullivan, Jr., Commissioner

Deirdre K. Manning, Commissioner